

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA, and
STATE OF LOUISIANA,**

Plaintiffs,

v.

CITY OF NEW IBERIA,

Defendant.

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CIVIL ACTION NO.

COMPLAINT

The United States of America, by authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), and the State of Louisiana, by and through the Secretary of the Louisiana Department of Environmental Quality ("LDEQ"), file this Complaint and allege as follows:

STATEMENT OF THE CASE

1. This is a civil action for injunctive relief and civil penalties brought under Section 309 of the Clean Water Act ("Act"), 33 U.S.C. § 1319, against the defendant, the City of New Iberia ("City"), for the discharge of pollutants, including untreated and partially treated sewage, in violation of Section 301 of the Act, 33 U.S.C. § 1311, and for the violation of effluent limitations and other conditions established in the National Pollutant Discharge Elimination System ("NPDES") permit issued to the City pursuant to Section 402 of the Act, 33 U.S.C. § 1342.

2. The State of Louisiana is a plaintiff in this action and is joined as a party under Section 309(e) of the Act, 33 U.S.C. § 1319(e). Whenever a municipality is a party to a civil

action brought by the United States under Section 309, the Act requires the State in which the municipality is located to be joined as a party.

JURISDICTION, VENUE, AND NOTICE

3. This Court has subject matter jurisdiction over this action pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1331, 1345 and 1355.

4. The United States has authority to bring this action on behalf of the Administrator of EPA under Section 506 of the Act, 33 U.S.C. § 1366, and under 28 U.S.C. §§ 516 and 519.

5. Venue is proper in this judicial district pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), and 28 U.S.C. §§ 1391(b) and (d) and 1395(a), because this is the district where the City is located and the district in which the violations occurred.

6. Pursuant to Section 309(b) of the Act, 33 U.S.C. § 1319(b), notice of the commencement of this action has been given to the State of Louisiana, which joins in this action as a co-plaintiff.

THE PARTIES

7. Plaintiff United States of America is acting at the request and on behalf of the Administrator of the EPA. The United States has the authority to bring this action on behalf of the Administrator of the EPA (“Administrator”) under Section 506 of the Act, 33 U.S.C. § 1366, and 28 U.S.C. §§ 516 and 519.

8. Plaintiff State of Louisiana is acting at the request and on behalf of the Secretary of LDEQ. Since August 27, 1996, Louisiana has shared with EPA responsibility for implementation of the CWA permitting program in Louisiana. Louisiana is also a party to this action pursuant to Section 309(e) of the Act, 33 U.S.C. § 1319(e). The Attorney General of the

State of Louisiana is authorized by La. R.S. 30:2025(G)(1) to institute civil proceedings for violations of state and federal statutory and regulatory law. Under La. R.S. 30:2025(G)(1), the Louisiana Department of Environmental Quality (“LDEQ”) is authorized to represent itself when the Attorney General has been requested to initiate a civil action but declines. The LDEQ has the Attorney’s concurrence to file this Complaint.

9. Defendant City is a political subdivision of the State of Louisiana, duly chartered and formed under the laws of the State of Louisiana, and is a "municipality" within the meaning of Section 502(4) of the Act, 33 U.S.C. § 1362(4), and a "person" within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

10. Defendant City owns and operates a “publicly owned treatment works” (or “POTW”) located in New Iberia, Louisiana, commonly known as the Admiral Doyle Sewage Treatment Plant, that discharges "pollutants" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), into "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7).

11. Defendant City and Sewerage District No. 1 of Iberia Parish, (“Sewerage District”) jointly own and operate a “publicly owned treatment works” (or “POTW”) located in Sewerage District No. 1 of Iberia Parish, Louisiana, commonly known as the Tete Bayou Sewage Treatment Plant, that discharges "pollutants" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), into "navigable waters" as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7).

FEDERAL STATUTES AND REGULATIONS

12. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the “discharge of pollutants” except in compliance with certain sections of the Act, including Section 402 of the Act, 33 U.S.C. § 1342.

13. The term “discharge of pollutants” is defined in Section 502(12) of the Act, 33 U.S.C. § 1362(12), to mean “any addition of any pollutant to navigable waters from any point source”

14. The term “navigable waters” is defined in Section 502(7) of the Act, 33 U.S.C. § 1362(12), to mean “the waters of the United States, including the territorial seas.”

15. The term “point source” is defined in Section 502(14) of the Act, 33 U.S.C. § 1362(14), to mean “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel . . . from which pollutants are or may be discharged.”

16. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that EPA may issue NPDES permits to "persons" that authorize the discharge of any pollutant into navigable waters, but only in compliance with Section 301 of the Act, 33 U.S.C. § 1311, and such other conditions as EPA determines are necessary to carry out the provisions of the Act.

17. Section 402(b) of the Act, 33 U.S.C. § 1342(b), provides that a State may establish its own permit program and, after receiving approval of its program by the EPA, may issue NPDES permits. The State of Louisiana established its own NPDES permit program and received EPA approval of its program in 1996.

18. Pursuant to Section 301 of the Act, 33 U.S.C. § 1311, and Section 402 of the Act, 33 U.S.C. § 1342, the Administrator is authorized to specify effluent limitations in NPDES permits. Effluent limitations include -- but are not limited to -- restrictions on the quantity, rate, and concentration of chemical, physical, biological, and other constituents of wastewater discharges, as defined in Section 502(11) of the Act, 33 U.S.C. § 1362(11).

19. Pursuant to Section 405 of the Act, 33 U.S.C. § 1345, in any case where the disposal of sewage sludge resulting from the operation of a treatment works would result in any pollutant from such sewage sludge entering the navigable waters, such disposal is prohibited except in accordance with a permit issued by the Administrator under Section 402 of the Act, 33 U.S.C. § 1342.

20. Section 309(b) of the Act, 33 U.S.C. § 1319(b), authorizes commencement of a civil action for appropriate relief, including a permanent or temporary injunction, when any person is in violation of Sections 301, 302, 306, 307, 308, 318 or 405 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328 or 1345, or is in violation of any permit condition or limitation implementing any of those sections in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

21. Section 309(d) of the Act, 33 U.S.C. § 1319(d), provides that any person who violates Sections 301, 302, 306, 307, 308, 318 or 405 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328 or 1345, or is in violation of any permit condition or limitation implementing any of those sections in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, shall be subject to a civil penalty not to exceed \$25,000 per day for each violation.

22. Pursuant to the Debt Collection Improvement Act of 1996 (28 U.S.C. § 2461), after January 30, 1997, any person who violates Sections 301, 302, 306, 307, 308, 318 or 405 of the Act, 33 U.S.C. §§ 1311, 1312, 1316, 1317, 1328 or 1345, or is in violation of any permit condition or limitation implementing any of those sections in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, shall be subject to a civil penalty not to exceed \$27,500 per day for each such violation; and after March 15, 2004, any person who violates the above provisions shall be subject to a civil penalty not to exceed \$32,500 per day for each such violation. See 69

23. Pursuant to 40 C.F.R. § 122.41(e), promulgated under the Act, a standard condition in all NPDES permits requires the permittee to, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit.

24. Pursuant to 40 C.F.R. § 122.41, promulgated under the Act, Discharge Monitoring Reports (“DMRs”) are required to be submitted to the EPA according to the time intervals specified in the NPDES permit. Typically, DMRs are submitted to the EPA on a monthly basis.

25. Pursuant to 40 C.F.R. § 122.41, promulgated under the Act, a standard condition of all NPDES permits requires that the permit holder report to the EPA any non-compliance that may endanger health or the environment.

26. Pursuant to 40 C.F.R. § 122.41 (k)(1) and 40 C.F.R. § 122.22 (3)(a) and (b), promulgated under the Act, a standard condition of all NPDES permits requires that all DMRs and non-compliance reports submitted to the Administrator be signed by a responsible executor or authorized agent of the organization that controls the point source -- who certifies that the reports are accurate.

27. Pursuant to regulation at 40 C.F.R. § 122.21(d), promulgated under the Act, any POTW with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit.

28. Pursuant to regulations at 40 C.F.R. § 122.6, promulgated under the Act, a permittee may continue to discharge in accordance with the conditions of an expired permit until the effective date of a new permit if the permittee timely submits an application for a new permit and

EPA, through no fault of the permittee, does not issue a new permit on or before the expiration date of the previous permit. A permit continued under this regulation remains fully effective and enforceable.

29. Pursuant to 40 C.F.R. § 403.3, promulgated under the Act, the term “publicly owned treatment works” (“POTW”) is defined as a treatment works (as that term is defined under Section 212 of the Act, 33 U.S.C. § 1292) that treats municipal sewage and is owned by a State or municipality. This definition includes the sewers, pipes and other conveyances which convey sewage to the sewage plants.

GENERAL ALLEGATIONS

(a) The Admiral Doyle Sewage Treatment Plant

30. The City owns and operates a publicly owned treatment works, which is located on Admiral Doyle Drive, approximately 2,400 feet southeast of the intersection of Admiral Doyle Drive and Center Street (State Highway 14), in the southern section of the City of New Iberia, Iberia Parish, Louisiana (referred to hereinafter as the Admiral Doyle POTW).

31. The Admiral Doyle POTW is a "treatment works" as that term is defined in Sections 212(2)(A) and (B) of the Act, 33 U.S.C. §§ 1292(2)(A) and (B), and a "publicly owned treatment works" as that term is defined by 40 C.F.R. § 122.2.

32. The Admiral Doyle POTW treats and discharges domestic and commercial sewage from the City of New Iberia and adjacent unincorporated areas via the Sewerage District No. 1 of Iberia Parish.

33. On or about October 14, 1994, the EPA issued NPDES Permit No. LA0044008 to the City of New Iberia, pursuant to Section 402 of the Act, 33 U.S.C. § 1342. The permit became

effective on December 1, 1994.

34. Permit No. LA0044008 authorized the City to discharge sewage, which is a “pollutant” as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), from Outfall 001, which is a “point source” as defined by Section 502(14), 33 U.S.C. § 1362(14), into the receiving waters of Commercial Canal and thence into Vermilion Bay of the Vermilion Teche Basin, all of which are “navigable waters” as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), in accordance with the effluent limitations, monitoring requirements and other conditions set forth in the Permit. Permit No. LA0044008 expired on November 30, 1999. The City has submitted an application for a new permit in accordance with federal regulation, 40 C.F.R. § 122.6.

35. Part I. A. of Permit No. LA0044008 provides effluent limitations for the discharge of Carbonaceous Biochemical Oxygen Demand (“BOD”), Total Suspended Solids (“TSS”), Ammonia-Nitrogen, Dissolved Oxygen, and Fecal Coliform Bacteria from outfall no. 001.

36. Parts III.C. and III.D. of the permit require the City to sample and test its effluent and monitor its compliance with permit conditions according to specific procedures in order to determine the level of pollutants in the wastewater discharged from Outfall 001 at the Admiral Doyle POTW. They also require the City to file with the EPA certified Discharge Monitoring Reports (“DMRs”) of the results of monitoring, and noncompliance reports when appropriate.

37. DMRs submitted by the City show that on numerous occasions, including, but not limited to, those listed in Exhibit A to this Complaint, the City has violated Part I. A. of Permit No. LA0044008 by discharging sewage into the receiving waters of Commercial Canal and thence into Vermilion Bay of the Vermilion Teche Basin, which has exceeded the effluent limitations authorized for BOD, TSS, Ammonia-Nitrogen, Dissolved Oxygen, or Fecal Coliform

Bacteria in the Permit.

38. Part II (D)(1) of Permit No. LA0044008 provides that the permit holder shall institute a program by no later than December 1, 1995, directed toward optimizing the efficiency and extending the useful life of the Admiral Doyle POTW. The permittee was directed to consider a number of factors in its program, including the influence of loading, flow and design capacity; the effluent quality and plant performance; age and expected life of equipment; the financial status of the facility; operator certification and training plans and status; preventative maintenance programs; and an overall evaluation of conditions at the facility.

39. Since 1994 when Permit No. LA0044008 was issued, the City has violated Part I (D)(1) of Permit No. LA0044008 by failing to institute a program by no later than December 1, 1995, directed toward optimizing the efficiency and extending the useful life of the Admiral Doyle POTW.

40. The City owns and maintains a sewer collection system that conveys sewage through a system of underground pipes and pump stations from its source to the Admiral Doyle POTW. On numerous occasions since 1994, the City has discharged pollutants, including untreated and partially treated sewage, from unpermitted locations at various points in the collection system, including, but not limited to, locations on Anderson Street, Monterey and Santa Clara Streets, Bank Street, Front Street, Duperier Street, and Landry Drive and at the Admiral Doyle POTW in violation of the requirements of the Clean Water Act.

41. Part III (B)(3) of Permit No. LA0044008 provides that the permit holder shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the permittee as efficiently as possible and

in a manner that will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of the permit.

42. Since 1994, the City has violated Part III(B)(3) of Permit No. LA0044008 by failing to at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), including the sewage collection system, in order to minimize upsets, overflows, and discharges of excessive pollutants and achieve compliance with the conditions of the permit at the Admiral Doyle POTW.

43. On June 20, 1995, EPA issued Administrative Order VI-95-1234 to the City finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City, inter alia, to attain compliance with its NPDES permit effluent limitations by September 16, 1996. The City failed to comply with the terms and conditions of the Order.

44. On the January 12, 1996, the EPA issued Administrative Order VI-96-1203 to the City finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City, inter alia, to attain compliance with NPDES permit effluent limitations by January 1, 1997. The City failed to comply with the terms and conditions of the Order.

45. On November 28, 1997, the EPA issued Administrative Order VI-98-1010 to the City finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City to take whatever corrective action was necessary to eliminate and prevent recurrence of the violations cited therein, and to submit a comprehensive plan for the elimination of the cited violations.

46. On October 27, 1999, the EPA issued Administrative Order CWA-6-1219-99,

finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City, inter alia, to attain compliance with the NPDES permit effluent limitations by June 1, 2002. The City failed to comply with the terms and conditions of the Order.

(b) Tete Bayou (Parker Street) Sewage Treatment Plant

47. The City and the Sewerage District jointly own and operate a publicly owned treatment works, which is located on Parker Street approximately 3.5 miles east of the City of New Iberia, Iberia Parish, Louisiana (referred to hereinafter as the Tete Bayou POTW).

48. The Tete Bayou POTW is a "treatment works" as that term is defined in Sections 212(2)(A) and (B) of the Act, 33 U.S.C. §§ 1292(2)(A) and (B), and a "publicly owned treatment works" as that term is defined by 40 C.F.R. § 122.2.

49. The Tete Bayou POTW treats and discharges domestic and commercial sewage from the City of New Iberia and adjacent unincorporated areas via the Sewerage District No. 1 of Iberia Parish.

50. On or about June 30, 1992, the EPA issued NPDES Permit No. LA0065251 jointly to the City and the Sewerage District, pursuant to Section 402 of the Act, 33 U.S.C. § 1342. The permit became effective on August 11, 1992. As co-permittees, the City and Sewerage District are jointly responsible for compliance with NPDES Permit No. LA0065251.

51. Permit No. LA0065251 authorized the City and the Sewerage District to discharge sewage, which is a "pollutant" as defined by Section 502(6) of the Act, 33 U.S.C. § 1362(6), from Outfall 001, which is a "point source" as defined by Section 502(14) of the Act, 33 U.S.C. § 1362(14), into the receiving waters of Tete Bayou in segment 0607 of the Vermilion Teche

Basin, which are “navigable waters” as defined by Section 502(7) of the Act, 33 U.S.C. § 1362(7), in accordance with the effluent limitations, monitoring requirements and other conditions set forth in the Permit. Permit No. LA0065251 expired on August 10, 1997. The City and the Sewerage District submitted an application for a new permit in accordance with federal regulation, 40 C.F.R. § 122.6.

52. Part I. A. of Permit No. LA0065251 provides effluent limitations for the discharge of Carbonaceous Biochemical Oxygen Demand (“BOD”), Total Suspended Solids (“TSS”), Ammonia-Nitrogen, Dissolved Oxygen, and Fecal Coliform Bacteria from Outfall 001.

53. Parts III.C. and III.D. of the permit require the City and the Sewerage District to sample and test their effluent and monitor their compliance with permit conditions according to specific procedures in order to determine the level of pollutants in the wastewater discharged from Outfall 001 at the Tete Bayou POTW. They also require the City and the Sewerage District to file with the EPA certified Discharge Monitoring Reports (“DMRs”) of the results of monitoring, and noncompliance reports when appropriate.

54. The DMRs submitted by the City and the Sewerage District show that on numerous occasions, including, but not limited to, those listed in Exhibit B to this Complaint, the City and the Sewerage District have violated Part I. A. of Permit No. LA0065251 by discharging sewage into the receiving waters of Tete Bayou in segment 0607 of the Vermilion Teche Basin, which has exceeded the effluent limitations authorized for BOD, TSS, Ammonia-Nitrogen, Dissolved Oxygen, or Fecal Coliform Bacteria in the Permit.

55. The City and the Sewerage District maintain sewer collection systems that convey sewage through a system of underground pipes and pump stations from their sources to the Tete

Bayou POTW. On various occasions since 1992, the City and the Sewerage District have discharged pollutants from unpermitted locations at various points in the collection systems and at the Tete Bayou POTW in violation of the requirements of the Clean Water Act.

56. Part III (B)(3) of Permit No. LA0065251 provides that the permit holder shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the permittee as efficiently as possible and in a manner that will minimize upsets and discharges of excessive pollutants and will achieve compliance with the conditions of the permit.

57. Since 1992, the City and the Sewerage District have violated Part III (B)(3) of Permit No. LA0065251 by failing to properly operate and maintain facilities and systems of treatment and control (and related appurtenances), including the sewage collection system, in order to minimize upsets, overflows, and discharges of excessive pollutants and achieve compliance with the conditions of the permit at the Tete Bayou POTW.

58. Part II (A)(2) of Permit No. LA0065251 provides that the permit holder shall inter alia use only those sewage sludge disposal practices that comply with federal regulations for landfill and solid waste disposal, and that disposal of sewage sludge shall not cause discharge to waters of the United States or cause non-point source pollution to the waters of the United States.

59. Since 1992, on various occasions the City and the Sewerage District have violated Part II(A)(2) of Permit No. LA0065251 by failing to properly manage and dispose of sewage sludge by stockpiling sewage sludge and failing to prevent such sludge from contaminating storm water and discharging pollutants into waters of the United States at the Tete Bayou POTW.

60. On February 1, 1994, the EPA and the City entered into a Consent Agreement and

Order, whereby the City agreed to pay a civil penalty in the amount of \$40,000 resulting from the failure of the City and the Sewerage District to adequately maintain the sewer collection system and eliminate all bypasses at the Tete Bayou POTW, as required under NPDES Permit No. LA0065251.

61. On May 31, 1995, the EPA issued Administrative Order VI-95-1240 to the City finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City, inter alia, to attain compliance with the NPDES permit effluent limitations by September 16, 1996. The City failed to comply with the terms and conditions of the Order.

62. On the July 5, 1995, the EPA issued Administrative Order VI-95-1241 to the City finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City, inter alia, to attain compliance with the NPDES permit conditions related to the collection of wastewater by January 31, 1997. The City failed to comply with the terms and conditions of the Order.

63. On November 28, 1997, the EPA issued Administrative Order VI-98-1017 to the City finding that the City was in violation of the effluent limitations set forth in Permit No. LA0044008, and requiring the City to take corrective action to eliminate and prevent recurrence of the effluent limitation, operation and maintenance, sludge disposal, bypass and overflow violations cited therein. The City has failed to comply with the terms and conditions of the Order.

64. The City and the Sewerage District have failed to make the required improvements at the Tete Bayou POTW and failed to attain full compliance with the effluent limitations in the

permit.

FIRST CLAIM FOR RELIEF
(Admiral Doyle POTW-Effluent Limit Violations)

65. Paragraphs 1 through 64 are realleged and incorporated here by reference.

66. On numerous occasions, including, but not limited to, those listed in Exhibit A to this Complaint; the City has violated Section 301 of the Act, 33 U.S.C. § 1311, because the Admiral Doyle POTW has discharged sewage into the receiving waters of Commercial Canal and thence into Vermilion Bay of the Vermilion Teche Basin, which has exceeded the effluent limitations authorized for BOD, TSS, Ammonia-Nitrogen, Dissolved Oxygen, or Fecal Coliform Bacteria in Part I (A) of Permit No. LA0044008.

67. The Admiral Doyle POTW will continue to discharge sewage into the receiving waters of Commercial Canal and thence into Vermilion Bay of the Vermilion Teche Basin, which exceeds the effluent limitations authorized for BOD, TSS, Ammonia-Nitrogen, Dissolved Oxygen, and Fecal Coliform Bacteria in Part I(A) of Permit No. LA0044008 unless ordered by the Court to cease.

68. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each violation of the effluent limitations set forth in Part I (A) of Permit No. LA0044008 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

SECOND CLAIM FOR RELIEF
(Admiral Doyle POTW-Unpermitted Discharges)

69. Paragraphs 1 through 64 are realleged and incorporated here by reference.

70. On numerous occasions since 1994 when Permit No. LA0044008 was issued, the City

has violated Section 301 of the Act, 33 U.S.C. § 1311, by discharging pollutants from unpermitted locations at various points in the collection system, including, but not limited to, locations on Anderson Street, Monterey and Santa Clara Streets, Bank Street, Front Street, Duperier Street, and Landry Drive and at the Admiral Doyle POTW that are not authorized in Permit No. LA0044008 and in violation of the requirements of the Clean Water Act.

71. The City will continue to violate Section 301 of the Act, 33 U.S.C. § 1331, by discharging pollutants from unpermitted locations within the collection system and at the Admiral Doyle POTW, unless ordered by the Court to cease.

72. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each discharge from a point source not authorized in Permit No. LA0044008 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

THIRD CLAIM FOR RELIEF
(Admiral Doyle POTW-Failure to Operate and Maintain)

73. Paragraphs 1 through 64 are realleged and incorporated here by reference.

74. Since 1994 when Permit No. LA0044008 was issued, the City has violated Section 301 of the Act, 33 U.S.C. § 1311, by failing to properly operate and maintain facilities and systems of treatment and control (and related appurtenances), including the sewage collection system, in a manner that will minimize upsets, overflows, and discharges of excessive pollutants and will achieve compliance with the conditions of the permit as required by Part III(B)(3) of Permit No. LA0044008.

75. The City will continue to violate Part III(B)(3) of Permit No. LA0044008 by failing

to at all times properly operate and maintain all facilities and systems of treatment and control, including the sewage collection system, in a manner that will minimize upsets, overflows, and discharges of excessive pollutants at the Admiral Doyle POTW, unless ordered by the Court to cease.

76. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each violation of the operation and maintenance requirements set forth in Part III(B)(3) of Permit No. LA0044008 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

FOURTH CLAIM FOR RELIEF
(Admiral Doyle POTW-Administrative Order Violations)

77. Paragraphs 1 through 64 are realleged and incorporated here by reference.

78. The City has violated EPA Administrative Orders VI-95-1234, VI-96-1203, and CWA-6-1219-99, by failing, inter alia, to attain compliance with the NPDES permit effluent limitations for the Admiral Doyle POTW, as required by those Administrative Orders.

79. The City will continue to violate EPA Administrative Orders VI-95-1234, VI-96-1203, VI-98-1010, and CWA-6-1219-99 with respect to the Admiral Doyle POTW, unless ordered by the Court to cease.

80. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day due to the City's violation of EPA Administrative Orders VI-95-1234 and VI-96-1203 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

FIFTH CLAIM FOR RELIEF
(Tete Bayou POTW-Effluent Limit Violations)

81. Paragraphs 1 through 64 are realleged and incorporated here by reference.

82. Since 1992 when Permit No. LA0065251 was issued, on numerous occasions, including, but not limited to, those listed in Exhibit B to this Complaint the City has violated Section 301 of the Act, 33 U.S.C. § 1311, because the Tete Bayou POTW has discharged sewage into the receiving waters of Tete Bayou in segment 0607 of the Vermilion Teche Basin, which has exceeded the effluent limitations authorized for BOD, TSS, Ammonia-Nitrogen, Dissolved Oxygen, or Fecal Coliform Bacteria in Part I (A) of Permit No. LA0065251.

83. The Tete Bayou POTW will continue to discharge sewage into the receiving waters of Tete Bayou in segment 0607 of the Vermilion Teche Basin, which exceeds the effluent limitations authorized for BOD, TSS, Ammonia-Nitrogen, Dissolved Oxygen, and Fecal Coliform Bacteria in Part I(A) of Permit No. LA0065251 unless ordered by the Court to cease.

84. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each violation of the effluent limitations set forth in Part I (A) of Permit No. LA0065251 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

SIXTH CLAIM FOR RELIEF
(Tete Bayou POTW-Unpermitted Discharges)

85. Paragraphs 1 through 64 are realleged and incorporated here by reference.

86. Since 1992 when Permit No. LA0065251 was issued, the City has violated Section 301 of the Act, 33 U.S.C. § 1311, by discharging pollutants from point sources, including leaks, bypasses, overflows, defects, and surcharged manholes, located within the collection system and

at the Tete Bayou POTW that are not authorized in Permit No. LA0065251 .

87. The City will continue to violate Section 301 of the Act, 33 U.S.C. § 1331, by discharging pollutants from unpermitted locations within the collection system and at the Tete Bayou POTW, unless ordered by the Court to cease.

88. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each violation of Section 301 of the Act, 33 U.S.C. § 1331, for each discharge from a point source not authorized in Permit No. LA0065251 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

SEVENTH CLAIM FOR RELIEF
(Tete Bayou POTW-Failure to Operate and Maintain)

89. Paragraphs 1 through 64 are realleged and incorporated here by reference.

90. Since 1992 when Permit No. LA0065251 was issued, the City has violated Section 301 of the Act, 33 U.S.C. § 1311, by failing to properly operate and maintain facilities and systems of treatment and control (and related appurtenances), including the sewage collection system, in a manner that will minimize upsets, overflows, and discharges of excessive pollutants and will achieve compliance with the conditions of the permit as required by Part III(B)(3) of Permit No. LA0065251.

91. The City will continue to violate Part III(B)(3) of Permit No. LA0065251 by failing to at all times properly operate and maintain all facilities and systems of treatment and control, including the sewage collection system, in a manner that will minimize upsets, overflows, and discharges of excessive pollutants at the Tete Bayou POTW, unless ordered by the Court to

cease.

92. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each violation of the operation and maintenance requirements set forth in Part III(B)(3) of Permit No. LA0065251 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

EIGHTH CLAIM FOR RELIEF
(Tete Bayou POTW-Sewage Sludge Management Violations)

93. Paragraphs 1 through 64 are realleged and incorporated here by reference.

94. Since 1992 when Permit No. LA0065251 was issued, the City has violated Section 405 of the Act, 33 U.S.C. § 1345, 40 C.F.R. Part 503, and Part II (A)(2) of Permit No. LA0065251 by failing to properly manage and dispose of sewage sludge by stockpiling sewage sludge and failing to prevent such sludge from contaminating storm water and discharging pollutants into waters of the United States at the Tete Bayou POTW.

95. The City will continue to violate Section 405 of the Act, 33 U.S.C. § 1345, 40 C.F.R. Part 503, and Part II (A)(2) of Permit No. LA0065251 by failing to properly manage and dispose of sewage sludge at the Tete Bayou POTW, unless ordered by the Court to cease.

96. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day for each violation of Section 405 of the Act, 33 U.S.C. § 1345, for each failure to properly manage and dispose of sewage sludge as required by Part II(A)(2) of Permit No. LA0065251 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

NINTH CLAIM FOR RELIEF
(Tete Bayou POTW-Administrative Orders)

97. Paragraphs 1 through 64 are realleged and incorporated here by reference.

98. The City has violated EPA Administrative Orders VI-95-1240, VI-95-1241, VI-98-1017 by failing, inter alia, to attain compliance with the NPDES permit effluent limitations for the Tete Bayou POTW, as required by those Administrative Orders.

99. The City will continue to violate EPA Administrative Orders VI-95-1240, VI-95-1241, VI-98-1017 with respect to the Tete Bayou POTW, unless ordered by the Court to cease.

100. Pursuant to Section 309 (d) of the Act, 33 U.S.C. § 1319 (d), the City is subject to civil penalties not to exceed \$27,500 per day due to the City's violation of EPA Administrative Orders VI-95-1240 and VI-95-1241 occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring after March 15, 2004.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States of America and the State of Louisiana, respectfully pray that this Court provide the following relief:

1. An injunction directing the defendant, the City, to take all steps prudent to assure permanent, continuous compliance with the Clean Water Act as soon as possible, the regulations promulgated thereunder, and the NPDES permits at the Admiral Doyle and Tete Bayou POTWs;

2. A judgment assessing civil penalties against the defendant not to exceed \$27,500 per day for each violation of the Clean Water Act, the regulations promulgated thereunder, and the NPDES permits at the Admiral Doyle and Tete Bayou POTWs occurring between January 30, 1997 and March 15, 2004; and not to exceed \$32,500 per day for each such violation occurring

after March 15, 2004.

3. A judgment awarding the United States and the State of Louisiana the costs of this action; and

4. Such further relief as this Court may deem appropriate.

Dated:

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

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